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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
10

11 VAHAN JALADIAN,

No. CIV S-04-1304-LKK-CMK-P

12 Plaintiff,

13 vs.

ORDER

14 CRIBBS,

15 Defendant.  
16 \_\_\_\_\_/

17 Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant  
18 to 42 U.S.C. § 1983. Pending before the court is defendant's proposed stipulation regarding the  
19 attendance of inmate Bryan Loving at trial (Doc. 81). Plaintiff has not responded to this  
20 proposed stipulation.

21 Defendant Cribbs indicates that inmate Loving is not willing to testify at the trial,  
22 has no personal knowledge of the facts at issue in this case, plaintiff never asked Loving to  
23 testify, and that Loving did not sign the declaration plaintiff submitted to the court. Defendant  
24 objects to the testimony of Loving, except to the extent that Loving testify as his lack of  
25 knowledge and that he did not sign the declaration plaintiff submitted with Loving's signature.  
26 Defendant has requested plaintiff's stipulation as to the facts outlined in the proposed stipulation

1 relating to inmate Loving's lack of knowledge of the material facts of the case and his  
2 unwillingness to testify.

3 Plaintiff is required to respond to defendant's proposed stipulation regarding  
4 inmate Loving. Plaintiff will have 30 days to file any response he may have. If he does not file  
5 any response within 30 days of the date of this order, the court will vacate that portion of the  
6 court's prior order allowing inmate Loving to testify, and a no transport writ for inmate Loving  
7 will issue. If plaintiff files a response, the court will consider the defendant's declaration and any  
8 response plaintiff files in deciding whether inmate Loving will be allowed to testify.

9 To the extent defendant is requesting to submit the declarations attached to his  
10 proposed stipulation, he is referred to this court's order of December 7, 2007. That order  
11 explains the requirements for admitting exhibits at trial which were not included in the pre-trial  
12 statements. (See Doc. 58 at 17).

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. Plaintiff shall file a response to defendant's proposed stipulation within 20  
15 days of the date of this order;

16 2. If no response is filed, the court will vacate that portion of the court's prior  
17 order allowing inmate Loving to testify, and a no transport writ for inmate Loving will issue; and

18 3. If plaintiff does file a response, the court will consider defendant's  
19 declaration and any response plaintiff files in deciding whether inmate Loving will be allowed to  
20 testify.

21  
22 DATED: July 23, 2008

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24 **CRAIG M. KELLISON**  
25 UNITED STATES MAGISTRATE JUDGE  
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